



14 April 2020

Advice to members: Covid-19 and houses that open to the public

Some CLA members own houses that are open to the public to comply with undertakings given to HMRC to qualify for exemption from inheritance tax and capital gains tax. Others may have houses owned by their family company and open them to the public to qualify for relief from the annual tax on enveloped dwellings (ATED).

For both conditional exemption and ATED, there is normally a requirement to open to the public for a minimum period of 28 days. Many houses that claim relief start their opening period at Easter and continue through the summer months. However, due to government measures to prevent the transmission of coronavirus, opening for business is not currently possible¹.

We sought clarification from HMRC about the impact of COVID-19 on members who would normally open their houses to the public to comply with undertakings or the conditions for ATED relief.

This CLA briefing note sets out advice we have received from HMRC that has yet to be published on www.gov.uk, and which we have agreed to make available to members.

Compliance with undertakings for conditional exemption

HMRC's advice is:

“Closing or delaying the opening of your property

You should follow Public Health England's [social distancing guidance](#) if you are the owner of a national heritage property.

We will not consider that you have broken your agreement with us if you are an owner of a national heritage property who closes it, or delays its opening to later in 2020. This will apply even if it means you will miss some of the period covered by your agreement, or you do not open at all in 2020.

If the situation improves we will expect your property to be open later in the year to make up for any lost days, if possible. We would not expect additional open days next year to make up for those missed in 2020.

Objects on loan to other organisations that close due to government advice

¹ For more information about the issues you need to consider if your business has to close see the CLA's [Advice to members: Covid-19 and UK Government measures on closing businesses and notes on key workers](#).



14 April 2020

If a conditionally exempted object is on loan to a museum, gallery or other venue which closes we will not treat the withdrawal of public access to the object as if you have broken your agreement with us.

This will apply even if it means the object is not on show at all in 2020.

Objects that can only be seen by appointment

If an object can only be seen by appointment then we will not expect you to agree to an appointment until the government's advice changes, and you will not have broken your agreement with us."

ATED and houses owned by companies

Where a house is not owned directly by an individual because the ownership is "enveloped" within a corporate wrapper, such as a company or limited liability partnership It falls within the annual tax on enveloped dwellings (ATED) regime.

Relief from the annual charge is normally available if the house is open to the public for at least 28 days a year. The CLA has asked HMRC for flexibility in their application of the rules for houses that would normally qualify for this relief but for the fact they have had to close to the public for a significant period in compliance with government instructions on steps that need to be taken to protect the wider public from coronavirus.

HMRC's advice is:

"The legislation which deals with the relief from ATED for dwellings opened to the public is in section 137 of FA2013.

Section 137(1) says that relief is due on any day if either of two conditions is satisfied: -

- Condition 1 is that the dwelling is being exploited as a source of income in the course of a qualifying trade in the normal course of which the public are offered the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on at least 28 days in any year (per section 137(2)), or
- Condition 2 - That steps are being taken for it to be open to the public (for at least 28 days) (in that or a future chargeable period) and that it will be so exploited without delay, except so far as delay is justified by commercial considerations or cannot otherwise be avoided (per section 137(3)).

Such a dwelling will not now be able to open because of the COVID19 lockdown. However, we do not yet know when the lockdown will end.

Say, for example, the restrictions ended in August -

- If the dwelling is opened for 28 days before 31/3/21 relief is due per section 137(2).
- If for some reason and for commercial reasons etc it cannot be opened in the remaining months of the year, relief would be due under section 137(3).



14 April 2020

- If the COVID19 lockdown lasts all year (i.e. to 31 March 2021), relief will be due so long as it is opened thereafter without undue delay, other than the delays excepted by section 137(3).

In terms of filing an ATED return by the 30 April 2020 deadline, section 100(1) says that a claim to interim relief may be made before the end of the chargeable period if one or more days in the period is relievably by virtue of sections 133 to 150. This means that if at the point the company files its ATED return, the company has met either of the conditions set out in section 137, the company can claim interim relief in that return for the remaining days in the chargeable period. If the position changes so that relief is no longer due (i.e. either of the two conditions above are no longer met), the company must submit a further return (per section 160).

In summary, as long as the company is opening the dwelling to the public on any day, or is taking active steps to do so without undue delay once the crisis is over, then the COVID19 situation does not affect eligibility to this relief.”

Can workers still attended to undertake maintenance or gardening work?

Government guidance states that all employees should be encouraged to work from home unless it is impossible for them to do so. Where working from home is not possible, workplaces should make every effort to comply with the social distancing guidelines set out by the government. It is your responsibility as an employer to make every effort to ensure that any workers attending to undertake maintenance or gardening duties comply with social distancing rules.

More information can be found in the government [guidance for businesses](#).